

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALANA LYNN GUAJARDO,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SOFIA MARIE GUAJARDO,

Respondent-Appellant,

and

JOSEPH LEE SPIVY,

Respondent.

UNPUBLISHED

March 27, 2007

No. 273475

Van Buren Circuit Court

Family Division

LC No. 00-015083-NA

Before: Servitto, P.J., and Talbot and Schuette, JJ.

PER CURIAM.

Respondent¹ appeals as of right from the order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

I. FACTS

In December 2006, a petition for termination of parental rights was filed, alleging that respondent had been riding in a car with the child when the driver of the car was intoxicated, and that several times while caring for the child, respondent herself had been drinking. Respondent admitted to the allegations in the petition, specifically that she had a problem with alcohol at her young age. The court ordered respondent to participate in a substance abuse program, take a teen parenting class, complete a parenting assessment, and cease using drugs and alcohol.

¹ Because Joseph Lee Spivy is not a party to this appeal, all references to “respondent” refer to Sofia Marie Guajardo.

Respondent failed to cooperate with the service providers, prompting the foster care worker and the case worker to recommend that the child be removed due to respondent's failure to provide proper care, failure to provide all the required drug screens, and her failure to attend all of the parenting classes.

II. STATUTORY GROUNDS FOR TERMINATION

A. Standard of Review

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once this has occurred, the trial court must terminate parental rights unless it finds that the termination is clearly not in the best interests of the child. *Id.* at 364-365. This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding of fact is clearly erroneous if a reviewing court has a definite and firm conviction that a mistake was made, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

B. Analysis

Respondent does not address the statutory grounds under which the trial court terminated her parental rights. Rather, she contends that the trial court erred in terminating her parental rights because there was no evidence that she had physically or sexually abused her daughter and because she had completed the teen parenting program and regularly visited the child. However, MCL 712A.19b(3)(g) and (j) do not require that petitioner prove that respondent abused her daughter.

MCL 712A.19b(3)(g) provides that termination of parental rights is appropriate when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Respondent consistently failed to meet the requirements set by the court to assist respondent in developing the skills necessary to provide the proper care and custody for the child. Respondent did not attend a majority of the parenting classes, failed to fully participate in the alcohol abuse program, and inconsistently manifested an intent to obtain long term employment, obtain permanent housing, and to develop appropriate parenting skills. Given respondent's inability to follow through with the required programs, the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(g).

Under MCL 712A.19b(3)(j), termination of parental rights is justified when "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." Respondent's failure to address her alcohol problem posed a risk of harm to the child. Respondent admitted that she had an alcohol abuse problem, and that she had placed her child in a car with an intoxicated driver. The foster care worker assigned to the case determined that respondent continued to make poor decisions and made no reasonable efforts to modify the behavior to provide a safe environment for the

child. Thus, we conclude that the trial court was also justified in terminating respondent's parental rights under MCL 712A.189b(3)(j).

III. BEST INTEREST OF THE CHILD

A. Standard of Review

Once a statutory ground for termination is established by clear and convincing evidence, the trial court must terminate parental rights unless termination clearly is not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 353. The trial court's decision on the best interests question is reviewed for clear error. *In re Trejo, supra* at 356-357.

B. Analysis

Respondent contends that termination of her parental rights was clearly not in the child's best interests. Respondent argues that she cooperated with all services and should have been allowed additional services before terminating her parental rights. However, respondent did not cooperate with the services provided to her. Her failure to cooperate with the substance abuse services prohibited her from providing proper care for her daughter and posed a risk of harm to the child. Consequently, respondent was not able to provide the child with a safe environment. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Deborah A. Servitto
/s/ Michael J. Talbot
/s/ Bill Schuette